

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

FREDERICK LYDEL ANDERSON,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No. CV 07-S-466-W
)	
WARDEN CHERYL PRICE and)	
THE ATTORNEY GENERAL FOR)	
THE STATE OF ALABAMA,)	
)	
Respondents.)	

MEMORANDUM OPINION


This is a habeas corpus petition based upon the petitioner's contention that the state trial court erroneously denied his motion to suppress evidence obtained from an allegedly unconstitutional search. The magistrate judge entered a report recommending that the respondents' motion for summary judgment be granted and the action be dismissed. The petitioner has filed objections in which he argues that he was not granted full and fair litigation of his claim because of the state criminal appeals court's failure to properly apply Alabama Supreme Court precedent.

This court's responsibility is to determine whether the state court afforded the petitioner an opportunity for a full and fair consideration of the search and seizure issue. Even in instances where the court's consideration of a habeas petition is not limited by the holding in *Stone v. Powell*, this court may not substitute its own

judgment for the judgment of the state court. *See Ventura v. Attorney General, Fla.*, 419 F.3d 1269, 1286 (11th Cir. 2005).

Wherefore, having considered the entire file in this action, including the report and recommendation and the petitioner's objections thereto, the court has reached an independent conclusion that the report and recommendation is due to be adopted and approved. Accordingly, the court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. An order denying this petition will be entered.

Done this 6th day of March, 2009.


United States District Judge